

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): He, et al.	Confirmation No. 7416
Application No.: 10582820	Art Unit: 1634
Filed: 10/8/2008	Examiner: SISSON, BRADLEY L
Title: Single Molecule Detection Using Molecular Motors	
Attorney Docket No.: 60224US	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Dear Sir:

This is a statement of the substance of the interviews conducted by telephone on June 28, 2011.

All participants (applicant, applicant's representative, PTO personnel):

- (1) Bradley L Sisson (Examiner).
- (2) Wayne Frasch (Applicant).
- (3) George A. Leone (attorney of record).

Claim(s) discussed: Draft amendment to claims 1-3, with new claims 8- 14.

Agreement with respect to the claims was not reached.

Identification of prior art discussed: _____.

Agreement with respect to the claims was reached.

A statement of the interview is included in the following **Remarks** Section beginning on page 2.

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Claims 1 and 10, steps (d)-(f) were discussed with attention focusing on the expression "the series of molecular motors" as found in step (e). Examiner Sisson indicated that it was not clear if "the series of molecular motors" was that complexed in step (d) or whether it was a different portion of "the series of molecular motors" was used to form the complex in (d). Messrs. Frasch and Leone indicated that they will consider alternative language whereby step (d) would be moved to be between steps (e) and (f). Agreement was reached that in step (e), line 2, the term "nucleotide" would be replaced with >>nucleic acid<<.

Agreement was reached that in claim 1, step (h), lines 2-3, the expression "as indicated by monitoring" would be replaced with >>by detecting<<. Messrs. Leone and Frasch also agreed that claim 10 would be similarly amended; and that dependent claims 8 and 9 would be amended so to reflect such changes in claim 1 from which they depend. Agreement was reached that claim 1, step (h), lines 5 and 8, the expression "unique corresponding" would be replaced with >>specific<<.

Claim 10, step (h) was discussed. The aspect of substituting "where the at least one wavelength indicates" with >>wherein detection of at least one wavelength of light is indicative<< was discussed. Examiner Sisson expressed concern that the expression "quencher metal nanorod detection probe" (new claim 12) may raise an issue of new matter. Examiner Sisson noted that the specification references the metal nanorods as scattering light, not emitting or quenching light. Examiner Sisson indicated that the claims as presently written fairly encompass using "metal nanorods" where the "metal" can be virtually any metal, and not just noble metals, or gold, as exemplified in the disclosure. Examiner Sisson indicated that a review of art that was published before the priority date of 17 December 2003, failed to produce art showing that metal nanorods, exhibiting the requisite characteristics, could be readily produced from any metal, much less that they were commercially available. Applicant indicated that he would be submitting publications showing that the state of the art prior to the priority date. Examiner Sisson noted that proposed new claims 13 and 14 recite a plethora of alternative detection means, yet the specification has not been found to set forth the essential reaction conditions and starting materials. The decision in *Genentech v. Novo Nordisk A/S* (Fed. Cir. 1997) 42 USPQ2d 1001 was cited. Messrs. Leone and Frasch indicated that they will consider submitting evidence showing the state of the art at the time of filing as it relates to each of the specified methods of detection and how one of skill in the art at the time of the invention could practice the full scope of the claims without having resort to undue experimentation.

Application No.: 10582820
Statement. dated August 8, 2011
Reply to Communication of 07/08/2011

Respectfully Submitted,

August 8, 2011
Date

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